


Human Trafficking and Cyber Laws in Malaysia

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INTRODUCTION

The era of digitalization is collectively becoming more of a vehicle for exploitation and criminal activities. That said, transnational criminals are increasingly utilizing the darknet or deep web as a medium for human trafficking. Human trafficking is a global problem and the solution requires a comprehensive response to tackle this borderless crime. In 2018, the U.S. State Department Trafficking in Persons (TIP) Report, ranked Malaysia a Tier 2 Watch List country because the “government of Malaysia does not fully meet the minimum standards for the elimination of trafficking; however, it is making significant efforts to do so”. In Malaysia, women, children, and migrant workers are exploited at every stage of the human trafficking process because of their vulnerability. Especially relevant now is the sophistication of human trafficking in the darknet or deep web. With global society becoming more technologically advanced, traffickers have been able to facilitate much of their criminal activity through technology, which provides both anonymity and access to communication with the entire world (Barney, 2018). That said, cyber laws in conjunction with federal and international laws require constant reviews in order to protect the victims of trafficking. This article reviews the literature on human trafficking, the existing legislations and their effectiveness in Malaysia to combat human trafficking in the internet and deep web. The article analyses the existing policies, Malaysia laws and international laws and instruments that are available to prevent and protect women, children and migrant workers from being trafficked. This article will also suggest the necessary measures to prevent human trafficking in Malaysia.

BACKGROUND

3

Human trafficking is often referred to as a modern form of slavery. Furthermore, it is considered a highly lucrative criminal activity and countries with large sex industries create the demand, supply and destination for trafficking in persons. Traffickers often target vulnerable women, children and migrants who seek for better employment and opportunities (Zimmerman & Kiss, 2017). Therefore, it is difficult to draw a line separating trafficking from free choice or voluntary illegal migration or prostitution. Malaysia is a source, transfer and destination country for a significant number of men, women, and children who are trafficked from Indonesia, Thailand, Philippines, Cambodia, Vietnam, Burma, People's Republic of China, India, Nepal, Bangladesh, and Pakistan for sexual and labor exploitation (U.S. Department of State, 2018). Many victims voluntarily migrate to Malaysia to work in factories, construction and agricultural sectors, or as domestic servants, but are later coerced into debt bondage or involuntary servitude (U.S. Department of State, 2018). Currently, the technology growth and use of information and communication technologies (ICTs) have been accompanied by an increase in exploitation and abuse of technology for criminal activities. With regard to cyberspace, the internet is increasingly used by transnational organized criminals for human trafficking (Voronova & Radjenovic, 2016). Trafficking in persons is an obvious form of organized crime that has been affected by the globalized revolution in ICT (Tan, Khan & Abdul Rahim, 2014). Illegal trafficking is not exclusive to sexual exploitation with respect to women or child trafficking, but also covers indentured servitude and child labor (Tan et al., 2014). ICTs such as using the internet and mobile phones are frequently used as a tool for human trafficking since internet control is almost borderless and convenient for human traffickers to operate the trafficking *modus operandi* (Toney-Butler & Mittel, 2018).

The era of digitalization and internet have enabled the organized crime of human trafficking to become more challenging for law enforcement agencies and governments. Law enforcement agencies around the world are largely not prepared for combatting cybercrime due the anonymity of the internet or deep web. The deep web or darknet is considered the hidden part of the internet that cannot be found using traditional search engines such as Google. It can be accessed only via software such as The Onion Router (TOR) without exposing the users' Internet Protocol (IP) address and is used to intentionally hide user identities to participate in illegal trade of guns, drugs, sex, counterfeit money, etc. (Formoso, 2017). Thus, making the internet or deep web alluring for cybercrimes and a vehicle for human trafficking. Furthermore, provide a convenient method for cybersex predators to indulge in their deviant behavior (Plaza, 2015).

Inadequate law enforcement facilitates criminals to exploit victims in the deep web. Due to this flaw, elements of human trafficking can be conducted in the deep web, such as: "exploitation of children for the production of pornographic material, online brides and marriage agencies" (Witting, 2017). Human trafficking in the cyber realm presents devastating legal dilemmas. For instance, because a child posing online conducting sexual acts is considered a victim of child pornography offence. Nevertheless, child pornography offences are often not systematically criminalized under the respective national legislation, which leaves a legal gap and often perpetrators are not charged. Furthermore, prosecutors have considered whether cyber trafficking cases, such as online child sex tourism, can be defined as human trafficking (Witting, 2017).

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